

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, JANUARY 14, 2021

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CLERK'S OFFICE
STATE CORPORATION COMMISSION

APPLICATION OF

RIVERSTREET COMMUNICATIONS
OF VIRGINIA, INC.,

CASE NO. PUR-2021-00008

For expanded designation as an
eligible telecommunications carrier

ORDER FOR NOTICE AND COMMENT

On January 6, 2021, RiverStreet Communications of Virginia, Inc. ("RiverStreet" or "Company") filed an application ("Application") with the State Corporation Commission ("Commission") pursuant to 47 U.S.C. § 214(e) and C.F.R. §§ 54.101 – 54.422 seeking an expanded designation as an eligible telecommunications carrier ("ETC") to receive federal universal service fund support covering specific areas in rural Virginia related to support funding awarded by the Federal Communications Commission ("FCC") through the Rural Digital Opportunity Fund ("RDOF").¹ Specifically, RiverStreet seeks to be designated as an ETC in 147 census blocks in portions of the counties of Amelia, Dinwiddie, Nottoway, Bedford, New Kent, Campbell, Franklin, Pittsylvania, Charlotte, Patrick, Brunswick, Mecklenburg, Halifax, and Lunenburg, Virginia.²

In support of its Application, RiverStreet states that it is a competitive local exchange carrier authorized to provide local exchange and interexchange telecommunications services in the Commonwealth of Virginia pursuant to certificates of public convenience and necessity

¹ Application at 1-5.

² *Id.* at 3-5 and Attachment A.

issued by the Commission.³ RiverStreet states that the Company was previously designated as an ETC by the Commission for different areas in Virginia in Case No. PUR-2018-00172.⁴

In this Application, RiverStreet states that it now seeks to be designated as an ETC in additional areas of Virginia as a consequence of its parent company, Wilkes TMC, having been awarded funding for 147 census block groups in rural Virginia locations through the RDOF rural broadband auction recently conducted by the FCC, and Wilkes TMC having assigned those areas in Virginia to RiverStreet, as its wholly owned indirect subsidiary.⁵ RiverStreet further states that designation as an ETC for the additional service areas described in this this Application will allow RiverStreet to offer discounts to qualifying low income customers in those areas through the FCC's Lifeline program.⁶ RiverStreet asserts that it will offer the services required by 47 U.S.C. § 254(c) and 47 C.F.R. § 54.101(a), and that the Company will meet the additional requirements imposed on an ETC by the FCC.⁷

NOW THE COMMISSION, upon consideration of the Application and applicable law, is of the opinion and finds that, consistent with prior orders in similar proceedings, local exchange carriers ("LECs") and other interested persons or entities should have an opportunity to file comments, objections, or requests for hearing on RiverStreet's Application.⁸ Therefore, we will

³ *Id.* at 2. See *Application of RiverStreet Communications of Virginia, Inc., For certificates of public convenience and necessity to provide local exchange telecommunications services in the Commonwealth of Virginia*, Case No. PUC-2015-00049, 2016 S.C.C. Ann. Rept. 162, Final Order (Feb. 26, 2016).

⁴ Application at 1. See *Application of RiverStreet Communications of Virginia, Inc., For designation as an eligible telecommunications carrier*, Case No. PUR-2018-00172, 2019 S.C.C. Ann. Rept. 291, Final Order (Feb. 7, 2019).

⁵ Application at 3, 7.

⁶ *Id.* at 4.

⁷ *Id.* at 4-7.

⁸ See, e.g., *Commonwealth of Virginia, ex rel, State Corporation Commission, Ex Parte, in re: Implementation of Requirements of § 214 (e) of the Telecommunications Act of 1996, and Application of Cox Virginia Telcom, L.L.C., For designation as an eligible telecommunications carrier under 47 U.S.C. § 214 (e)*, Case Nos. PUC-1997-00135

direct RiverStreet to email a copy of this Order for Notice and Comment to all LECs certificated to provide service in Virginia. We also direct RiverStreet to provide a copy of its Application to anyone so requesting. Further, we find that any objections to the Company's Application should include a statement of the reasons for such opposition, and if the objection is related to a specific territory, that territory should be clearly defined. We find that requests for hearing shall state with specificity why such concerns cannot be adequately addressed in written comments or objections. Finally, we find that the Staff of the Commission ("Staff") should investigate the Application and present its findings and recommendations in a report ("Staff Report").

The Commission further takes judicial notice of the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, and the declarations of emergency issued at both the state and federal levels.⁹ The Commission has taken certain actions, and may take additional actions going forward, that could impact the procedures in this proceeding.¹⁰

and PUC-2012-00059, Doc. Con. Cen. No. 121119018, Order Requesting Comments, Objections, or Requests for Hearing (Nov. 1, 2012) (noting that the Commission established Case No. PUC-1997-00135 to consider the requests of local exchange carriers to be designated as ETCs to receive universal support pursuant to the U.S. Code and associated federal regulations); *Application of RiverStreet Communications of Virginia, Inc., For designation as an eligible telecommunications carrier*, Case No. PUR-2018-00172, Doc. Con. Cen. No. 181120210, Order for Notice and Comment (Nov. 7, 2018).

⁹ See, e.g., Executive Order No. 51, Declaration of a State of Emergency Due to Novel Coronavirus, COVID-19, issued March 12, 2020, by Governor Ralph S. Northam. See also Executive Order No. 53, Temporary Restrictions on Restaurants, Recreational, Entertainment, Gatherings, Non-Essential Retail Businesses, and Closure of K-12 Schools Due to Novel Coronavirus (COVID-19), issued March 23, 2020, by Governor Ralph S. Northam, and Executive Order No. 55, Temporary Stay at Home Order Due to Novel Coronavirus (COVID-19), issued March 30, 2020, by Governor Ralph S. Northam. These and subsequent Executive Orders related to COVID-19 may be found at: <https://www.governor.virginia.gov/executive-actions/>.

¹⁰ See, e.g., *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders*, Case No. CLK-2020-00004, Doc. Con. Cen. No. 200330035, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, Doc. Con. Cen. No. 200330042, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020) ("Revised Operating Procedures Order"), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties*

Consistent with these actions, in regard to the terms of the procedural framework established below, the Commission will, among other things, direct the electronic filing of pleadings herein, unless they contain confidential information, and require electronic service on parties to this proceeding.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. PUR-2021-00008.

(2) All pleadings, briefs, or other documents required to be served in this matter shall be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice").¹¹ Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. For the duration of the COVID-19 emergency, any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.¹²

(3) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent

during COVID-19 emergency, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service (Apr. 1, 2020).

¹¹ 5 VAC 5-20-10 *et seq.*

¹² As noted in the Revised Operating Procedures Order, submissions to the Commission's Clerk's Office via U.S. mail or commercial mail equivalents may not be processed for an indefinite period of time due to the COVID-19 emergency.

practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

(4) On or before January 29, 2021, RiverStreet shall provide a copy of this Order for Notice and Comment by email to each local exchange telephone carrier certificated in Virginia. A list of all current local exchange carriers in Virginia is attached as an appendix to this Order.

(5) RiverStreet shall respond promptly to requests from interested persons or entities for copies of the Application and shall provide one copy free of charge. An electronic copy may be obtained by submitting a written request to RiverStreet's counsel: Daniel C. Higgins, Esquire, Burns, Day & Presnell, P.A., P.O. Box 10867, Raleigh, North Carolina. 27605, dhiggins@bdppa.com. Interested persons may download unofficial copies from the Commission's website: scc.virginia.gov/pages/Case-Information.

(6) On or before February 19, 2021, any person desiring to comment on RiverStreet's Application may do so electronically by following the instructions on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments, or by filing such comments with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. A copy thereof shall be served on counsel for RiverStreet at the address in Ordering Paragraph (5).

(7) On or before February 19, 2021, any person or entity may file objections to RiverStreet's Application by filing such objections with the Clerk of the Commission at: scc.virginia.gov/clk/efiling/ or by filing an original and fifteen (15) copies of the objections with the Clerk of the Commission at the physical address set forth in Ordering Paragraph (6). Any objections to the Company's Application shall include a statement of the reasons for such opposition, and if the objection is related to a specific territory, that territory shall be clearly

defined. Filed objections shall reference Case No. PUR-2021-00008. A copy thereof shall be served on counsel for RiverStreet at the address in Ordering Paragraph (5).

(8) On or before February 19, 2021, any person or entity may request that the Commission convene a hearing on RiverStreet's Application by filing a request for a hearing with the Clerk of the Commission at: scc.virginia.gov/clk/efiling/ or an by filing an original and fifteen (15) copies of the request for hearing with the Clerk of the Commission at the physical address set forth in Ordering Paragraph (6). Written requests for hearing shall reference Case No. PUR-2021-00008 and shall include: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in the matter. A copy thereof shall be served on counsel for RiverStreet at the address in Ordering Paragraph (5).

(9) On or before February 19, 2021, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation with the Clerk of the Commission at: scc.virginia.gov/clk/efiling/ or by filing an original and fifteen (15) copies of the notice of participation with the Clerk of the Commission at the physical address set forth in Ordering Paragraph (6). Such notice of participation shall include the email addresses of such parties or their counsel. The respondent shall serve a copy of the notice of participation on counsel to the Company at the address in Ordering Paragraph (5). Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be

represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2021-00008.

(10) The Staff shall investigate the Company's Application and present its findings and recommendations in a Staff Report to be filed on or before March 12, 2021.

(11) On or before March 26, 2021, RiverStreet may file responses to the Staff Report and to any comments, objections, or requests for hearing filed with the Commission. If not filed electronically, an original and fifteen (15) copies of any responses shall be submitted to the Clerk of the Commission at the address in Ordering Paragraph (6). A copy of the response shall be served upon the Staff and on any persons or entities who filed comments, objections, or requests for hearing.

(12) All documents filed with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

(13) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within seven (7) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically, or by facsimile, on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to Staff. Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(14) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to:

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